

109TH CONGRESS
1ST SESSION

H. R. 4466

To amend the Communications Act of 1934 to require the Federal Communications Commission to prescribe rules regulating inmate telephone service rates.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 7, 2005

Mr. RUSH introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to require the Federal Communications Commission to prescribe rules regulating inmate telephone service rates.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Telephone Con-
5 nection Protection Act of 2005”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that:

8 (1) The telephone is the primary method by
9 which individuals correspond and maintain contact

1 with family members who are incarcerated in correc-
2 tional institutions.

3 (2) Except for emergency purposes, family
4 members are not allowed to call people incarcerated
5 in correctional institutions; incarcerated persons are
6 typically allowed to call family members and other
7 pre-approved individuals only through payphones
8 physically located on the premises of correctional in-
9 stitutions.

10 (3) Inmate telephone service in correctional in-
11 stitutions often is limited to collect calling.

12 (4) Regardless of whether the prisoners' calls
13 are placed collect or through a debit account, the
14 prisoners' family members typically pay for the calls,
15 either through their telephone bills, in the case of
16 collect calls received from prisoners, or by making
17 deposits directly into prisoners' debit accounts.

18 (5) Innocent citizens are paying excessive tele-
19 phone charges simply due to having a family mem-
20 ber or loved one who is incarcerated.

21 (6) The rates for calls from correctional institu-
22 tions are some of the highest rates in the United
23 States, with some per-minute charges reaching \$1
24 and service or connection charges of \$3.95 per call.

1 (7) Information compiled by the Congress and
2 the Federal Communications Commission shows that
3 the high rates are due in part to the lack of competi-
4 tion between telephone companies that provide long
5 distance inmate telephone service to correctional in-
6 stitutions.

7 (8) There are no competitive forces providing
8 incentives for those carriers to lower prices or oper-
9 ate efficiently because, unlike the mass market, only
10 one carrier is typically permitted to provide long dis-
11 tance inmate telephone service within each correc-
12 tional institution.

13 (9) High calling rates also are due in part to
14 commissions that carriers pay to correctional institu-
15 tion administrators for the exclusive right to provide
16 long distance inmate telephone service in a correc-
17 tional facility. In some cases, such commissions ac-
18 count for 50 percent or more of the total charges.

19 (10) The collection of such commissions by cor-
20 rectional institution administrators and state depart-
21 ments of correction based upon interstate tele-
22 communications revenues is a burden on interstate
23 commerce.

24 (11) Due to the lack of competition for tele-
25 phone services within correctional institutions, fami-

1 lies of people in prison, many of whom have low in-
2 comes, cannot choose the long distance carrier with
3 the lowest calling rates and must pay the excessive
4 rates charged by the carrier having the exclusive
5 right to provide long distance service to the correc-
6 tional institution from which the call originates.

7 (12) It is the policy of the United States to en-
8 sure that all Americans are afforded just and rea-
9 sonable communications services, including those
10 families that pay rates for inmate telephone service.

11 (13) It is clear from various studies that main-
12 taining frequent and meaningful communications be-
13 tween people who are incarcerated and family mem-
14 bers is key to the successful social reintegration of
15 formerly incarcerated individuals. Such contact re-
16 duces recidivism and facilitates rehabilitation, which
17 in turn reduces crime and the future costs of impris-
18 onment.

19 (14) Frequent communications between incar-
20 cerated persons and family members is burdened,
21 and in some cases, prevented, by excessive inmate
22 telephone service rates. Excessive inmate telephone
23 service rates thus weaken the family and community
24 ties that are necessary for successful reentry into so-
25 ciety by persons who were formerly incarcerated and

1 the reduction in crime resulting from successful re-
2 entry.

3 (15) The Commission has the expertise and au-
4 thority to regulate inmate telephone service. Because
5 parties to Commission rulemaking proceedings have
6 raised issues regarding its authority to implement
7 meaningful relief for excessive inmate telephone
8 service rates, Congress finds it necessary and appro-
9 priate to reaffirm that the Commission has the au-
10 thority to implement the types of relief set forth in
11 this Act.

12 **SEC. 3. RESTRICTIONS ON THE PROVISION OF INMATE**
13 **TELEPHONE SERVICE.**

14 (a) DEFINITIONS.—Section 226(a) of the Commu-
15 nications Act of 1934 (47 U.S.C. 226(a)) is amended add-
16 ing at the end the following new paragraphs:

17 “(10) The term ‘collect’ or ‘collect call’ refers to
18 a telephone call from a person incarcerated in a cor-
19 rectional institution that is billed to the subscriber
20 receiving the call.

21 “(11) The term ‘commission’ refers to a fee or
22 other payment by a provider of inmate telephone
23 service to an administrator of a correctional institu-
24 tion, department of correction, or similar entity,

1 based upon, or partly upon, inmate telephone service
2 revenue.

3 “(12) The term ‘debit account’ refers to the
4 payment of inmate telephone service through a pris-
5 oner’s prepaid card or other account, which can be
6 accessed only through an access code, personal iden-
7 tification number, or similar identifier.

8 “(13) The term ‘inmate telephone service’ in-
9 cludes the provision of telephone service enabling
10 persons incarcerated in correctional institutions to
11 originate interstate calls at payphones or other tele-
12 phones that are designated for prisoners’ personal
13 use, regardless of whether the calls are collect, paid
14 through a debit account, or paid through any other
15 means.

16 “(14) The term ‘provider of inmate telephone
17 service’ means any common carrier that provides in-
18 mate telephone service or any other person deter-
19 mined by the Commission to be providing inmate
20 telephone service.”.

21 (b) REGULATIONS.—Section 226 is further amend-
22 ed—

23 (1) by redesignating subsection (i) as subsection
24 (k); and

1 (2) inserting after subsection (h) the following
2 new subsections:

3 “(i) REGULATION OF INMATE TELEPHONE SERV-
4 ICE.—

5 “(1) RATES.—In order to ensure that charges
6 for inmate telephone service are just, reasonable,
7 and nondiscriminatory, the Commission shall con-
8 sider, either in a rulemaking proceeding that is
9 pending as of the date of enactment of the Family
10 Telephone Connection Protection Act of 2005 or in
11 a new rulemaking proceeding, the following types of
12 regulation of inmate telephone service, all of which
13 are within the Commission’s jurisdiction and author-
14 ity:

15 “(A) prescribing a maximum uniform per-
16 minute compensation rate;

17 “(B) prescribing a maximum uniform serv-
18 ice connection or other per-call compensation
19 rate;

20 “(C) prescribing variable maximum com-
21 pensation rates depending on such factors as
22 carrier costs, the size of the correctional facility
23 served, and other relevant factors identified by
24 the Commission;

1 “(D) requiring providers of inmate tele-
2 phone service to offer both collect calling and
3 debit account services;

4 “(E) prohibiting the payment of commis-
5 sions by providers of inmate telephone service
6 to administrators of correctional institutions,
7 departments of correction, and similar entities;
8 and

9 “(F) requiring administrators of correc-
10 tional institutions, departments of correction,
11 and similar entities to allow more than one pro-
12 vider of inmate telephone service to provide
13 interstate inmate telephone service at a correc-
14 tional institution in order that prisoners have a
15 choice of such providers.

16 “(2) SCOPE.—The regulations adopted by the
17 Commission shall be technologically neutral and
18 shall not jeopardize legitimate security and
19 penological interests. To the extent the Commission
20 regulations reduce or eliminate the revenue derived
21 by administrators of correctional institutions, de-
22 partments of correction, and similar entities from
23 the receipt of commissions, such effects of Commis-
24 sion regulations shall not be considered as jeopard-

1 izing or otherwise affecting legitimate security or
2 penological interests.

3 “(3) DEADLINES AND PERIODIC REVIEW.—The
4 Commission shall prescribe regulations to implement
5 the provisions of this subsection within one year
6 after the date of enactment of the Family Telephone
7 Connection Protection Act of 2005. The Commission
8 shall review, on a triennial basis, the regulations
9 promulgated under this subsection, including wheth-
10 er any Commission-established compensation rates
11 should be modified.

12 “(4) STATE PREEMPTION.—To the extent that
13 any State requirements are inconsistent with the
14 Commission’s regulations affecting or pertaining to
15 interstate inmate telephone service, including restric-
16 tions on the payment of commissions based upon
17 interstate inmate telephone service revenues or earn-
18 ings, the Commission’s regulations on such matters
19 shall preempt such State requirements.

20 “(j) INMATE TELEPHONE SERVICE FULLY SUBJECT
21 TO SECTIONS 251 AND 252.—

22 “(1) Inmate telephone service is fully subject to
23 the requirements of sections 251 and 252 of this
24 Act.

1 “(2) No provider of inmate telephone service
2 may block or otherwise refuse to carry a call placed
3 by an incarcerated person on the grounds that the
4 provider has no contractual or other arrangement
5 with the local exchange carrier serving the intended
6 recipient of the call or other common carrier in-
7 volved in any portion of the transmission of the
8 call.”.

○